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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,242	08/27/2003	David R. Sander	29939/03015	6017

7590

10/05/2005

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EXAMINER

LHYMN, EUGENE

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/649,242

Applicant(s)

SANDER ET AL.

Examiner

Eugene Lhymn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/27/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention: Fig. 3 (claims 1-9, 13-17) & Fig. 6 (claims 10-12)

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, independent claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

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the prior art, the evidence or admission may be used in a rejection under 35

U.S.C. 103(a) of the other invention.

1. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

2. During a telephone conversation with Russ Petersen on 9/29/05 a provisional election was made without traverse to prosecute the invention drawn to Fig. 3, claims 1-9, 13-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lippisch (US Des. 372568). With respect to claim 1, Lippisch discloses the following:

- A bottom wall with an outer periphery (Fig. 1 below)
- A contiguous sidewall extending up from the outer periphery of the bottom wall and defining an interior of the laundry basket (Fig. 1 below)
- A first handle on a portion of the contiguous sidewall including a first grip (Fig. 1, the sidewall apertures wherein the lowermost edge of each aperture is the first grip) and a first knuckle guard disposed spaced outwardly from the first grip in a direction away from the interior of the basket (Fig. 1, wherein the knuckle guard is defined by the outwardly extending sidewall portion of the outer rim)

With respect to claim 2, Lippisch discloses the contiguous sidewall including a first, second, third, and fourth sidewall extending up from the bottom wall, as shown below in Fig. 1.

With respect to claim 3, Lippisch discloses the contiguous sidewall being substantially rectangular, wherein the first and second sidewalls are relatively longer than the third and fourth sidewalls (Fig. 1 below).

With respect to claim 4, Lippisch discloses a second handle formed on an upper end of the contiguous sidewall opposite the first handle, the second handle including a second grip and a second knuckle guard disposed spaced outward from the second grip in a direction away from the interior of the basket, as shown below in Fig. 1.

With respect to claim 5, Lippisch discloses a third handle attached to the third sidewall and including a third grip and knuckle guard, which is disposed outward from the third grip in a direction away from the interior of the basket, as shown below in Fig. 1.

With respect to claim 13, Lippisch discloses the first knuckle guard being a bar spaced from and encompassing one side of the first grip, as shown in Fig. 1 below.

With respect to claim 14, Lippisch discloses the following:

- A base including an outer periphery
- A first, second, third, and fourth sidewall, each one extending up from the outer periphery of the base, defining an interior of the basket
- A first handle on a portion of the contiguous sidewall including a first grip (Fig. 1, the sidewall apertures wherein the lowermost edge of each aperture is the first grip) and a first knuckle guard disposed spaced outwardly from the first grip in a direction away from the interior of the basket (Fig. 1, wherein the knuckle guard is defined by the outwardly extending sidewall portion of the outer rim)
- A second handle including a second grip and knuckle guard disposed outwardly from the second grip in a direction away from the interior of the basket (Fig. 1 below)

With respect to claim 15, Lippisch discloses a third handle formed on an upper end of the third sidewall, the third handle including a third grip and third knuckle guard (Fig.1 below)

With respect to claim 16, Lippisch discloses the first and second knuckle guards being a bar spaced from and encompassing one side of the grips, as shown in Fig. 1 below.

With respect to claim 17, Lippisch discloses the following:

- A base including an outer periphery (Fig. 1 below)
- A contiguous sidewall extending up from the outer periphery of the bottom wall and defining an interior of the laundry basket (Fig. 1 below)
- A first handle on a portion of the contiguous sidewall including a first grip (Fig. 1, the sidewall apertures wherein the lowermost edge of each aperture is the first grip) and a first knuckle guard disposed spaced outwardly from the first grip in a direction away from the interior of the basket (Fig. 1, wherein the knuckle guard is defined by the outwardly extending sidewall portion of the outer rim)
- A second handle formed on an upper end of the contiguous sidewall opposite the first handle, the second handle including a second grip and a second knuckle guard disposed spaced outward from the second grip in a direction away from the interior of the basket (Fig. 1 below)

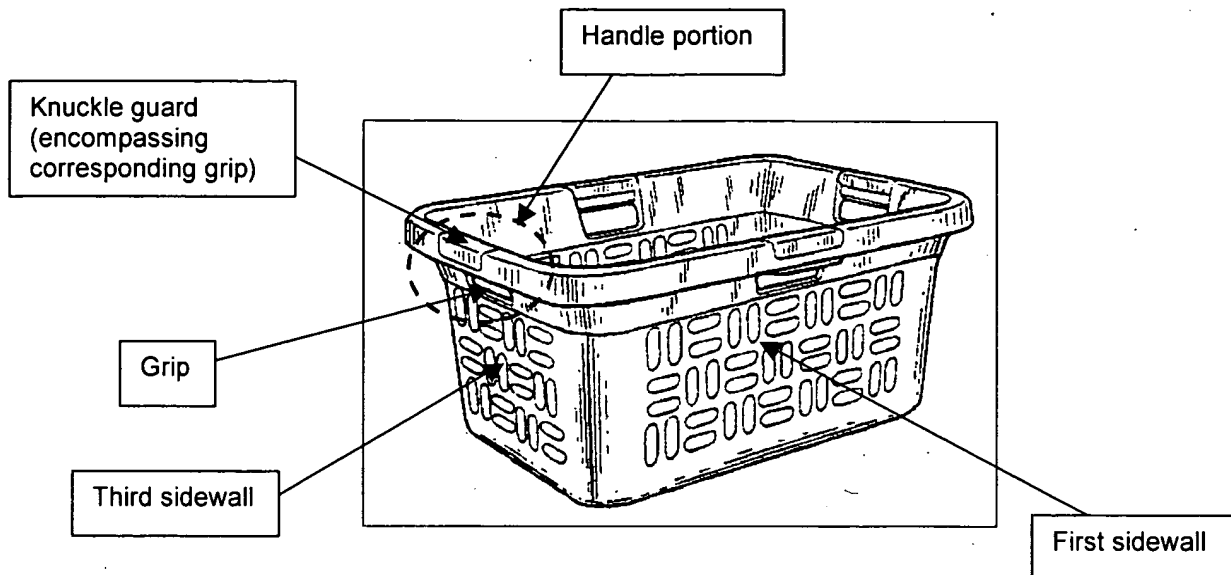


Figure 1: Lippisch (US Des. 372568)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lippisch in view of Williams Jr. (US 5667069). With respect to claim 8, Lippisch discloses the claimed invention except for the first grip being formed above the first side opening. Nonetheless, Williams Jr. teaches a first grip (Fig. 1, item 18) being formed as a portion of the contiguous sidewall above the first side opening, wherein the handle structure of Lippisch is modified such that the knuckle guard (Fig. 1 item 12) and grip,



as taught by Williams Jr., are located on the upper brim of the container, thus the first grip being above the side opening. Having the grip formed as a portion of the contiguous sidewall and disposed above the side opening provides an alternative handle arrangement that may be more suitable for users with special needs, such as an arthritic user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add the grip of Williams Jr. to the upper brim of the container of Lippisch so as to provide an alternative handle arrangement that may be more suitable for users with special needs, such as an arthritic user.

With respect to claim 9, Williams Jr. teaches the first knuckle guard being disposed on the side of the contiguous sidewall opposite the interior of the basket, as shown in Fig. 2, item 12.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lippisch in view of Delouvre et al. (US Des. 425275). With respect to claim 6, Lippisch discloses the claimed invention except for the contiguous sidewall including a concavely arched sidewall adapted to bear against the user. However, Delouvre et al. teaches a laundry basket having a contiguous sidewall including a concavely arched sidewall adapted to bear against the user, as shown in Fig. 1. Having a concavely arched sidewall provides a more ergonomic design. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the contiguous sidewall of Lippisch to have a concavely arched sidewall as taught by Delouvre et al. so as to provide a more ergonomic design.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Avey et al. (US Des. 328838)

Flink (US 6039205)

Short et al. (US Des. 389621)

Sofy et al. (US D477145 S)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lhymn whose telephone number is 571-272-8712. The examiner can normally be reached on MTWTh 8:30-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Stephen K. Cronin**  
Primary Examiner